

# Court of Appeals, State of Michigan

## ORDER

Bertha Griffin v Jon Lee Graves

Docket No. 275383

LC No. 04-406479-NO

Brian K. Zahra  
Presiding Judge

Helene N. White

Kurtis T. Wilder  
Judges

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In lieu of granting leave, the Court orders that the matter is REMANDED to the trial court to make a record of the reasoning underlying its denial of defendant's motion for relief from the default judgment entered against him on September 20, 2004. Plaintiff does not dispute defendant's assertion that the trial court never conducted a hearing on the motion, and this Court is unable to sufficiently review whether the trial court abused its discretion in denying the motion without an articulation as to the trial court's basis for denying the motion.

In light of defendant's affidavit in which he averred that he did not reside at 3680 Parker, Detroit, where the process server indicated on the proof of service defendant was served, and that he never received notice of the lawsuit, the trial court shall resolve this factual dispute on remand. The trial court shall also address whether defendant received notices of the default, the motion for default judgment and the default judgment, which apparently were sent to the Parker address, and shall also resolve any other disputed issues that were raised in defendant's motion.

The Court retains jurisdiction. The trial court shall address these issues on remand and clarify the basis for its denial of the motion for relief from the default judgment, on the record or in writing, within 56 days from the Clerk's certification of this order and shall cause a transcript of any hearing to be prepared at defendant's expense and filed within 21 days after completion of the proceedings. Defendant shall immediately file a copy of the transcript with the Clerk of this Court.

The delayed application for leave is HELD IN ABEYANCE pending the outcome of the remand proceedings.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUN 14 2007

Date

*Sandra Schultz Mengel*  
Chief Clerk